

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ISAAC RICHEY,

Plaintiff,

ANSWER

-against-

ANN MARIE T. SULLIVAN, MD, in her Individual and Official Capacity, NEW YORK STATE OFFICE OF MENTAL HEALTH, NEW YORK STATE OFFICE OF NICS APPEALS AND SAFE ACT, DOES 1-10 in their individual capacities,

Defendants.

Case No.
1:23CV344 (AMN-
DJS)

Defendants, Ann Marie T. Sullivan, MD, in her individual and official capacity; New York State Office of Mental Health (“OMH”); and New York State Office of NICS Appeals and Safe Act (“NICS Office”) (collectively, “Defendants”),¹ by their attorney, Letitia James, Attorney General of the State of New York (Shannan C. Krasnokutski, of counsel), answer the Complaint dated March 17, 2023 (ECF No. 1, “Complaint”) as follows:

NATURE OF THE ACTION²

1. The allegations contained in paragraph 1 of the Complaint constitute Plaintiff’s characterization of this proceeding, to which no response is required. To the extent a response is required, deny the allegations contained in paragraph 1 of the Complaint.

JURISDICTION AND VENUE

2. Deny the allegations contained in paragraph 2 of the Complaint; except admit that

¹ The undersigned counsel do not represent the “Doe” defendants in this matter.

² Defendants utilize Plaintiff’s headings, where applicable, for ease of reference only, and do not admit the truth or applicability of any of the headings as designated by Plaintiff.

Plaintiff has commenced this action under the United States Constitution and laws of the United States.

3. Deny the allegations contained in paragraph 3 of the Complaint, except admit the allegations that the Plaintiffs seek the relief discussed, and admit that venue is proper in this District.

THE PARTIES

4. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint.

5. Admit the allegations contained in paragraph 5 of the Complaint.

6. Admit the allegations contained in paragraph 6 of the Complaint.

7. Admit the allegations contained in paragraph 7 of the Complaint.

8. Deny the allegations contained in paragraph 8 of the Complaint.

9. Deny the allegations contained in paragraph 9 of the Complaint.

STATUTORY FRAMEWORK

10. As to the allegations contained in paragraph 10 of the Complaint, respectfully refer the Court to the cited statute and regulation as the best evidence and most accurate version of their contents and deny the allegations contained in paragraph 10 of the Complaint to the extent inconsistent therewith.

11. As to the allegations contained in paragraph 11 of the Complaint, respectfully refer the Court to the cited statute and regulation as the best evidence and most accurate version of their contents and deny the allegations contained in paragraph 11 of the Complaint to the extent inconsistent therewith.

12. As to the allegations contained in paragraph 12 of the Complaint, respectfully refer

the Court to the cited government publication as the best evidence and most accurate version of its contents and deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the Complaint.

13. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the Complaint.

14. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the Complaint.

15. As to the allegations contained in paragraph 15 of the Complaint, respectfully refer the Court to the cited regulation as the best evidence and most accurate version of its contents and deny the allegations contained in paragraph 15 of the Complaint to the extent inconsistent therewith.

16. As to the allegations contained in paragraph 16 of the Complaint, respectfully refer the Court to the cited statute and regulation as the best evidence and most accurate version of their contents and deny the allegations contained in paragraph 16 of the Complaint to the extent inconsistent therewith.

17. As to the allegations contained in paragraph 17 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents and deny the allegations contained in paragraph 17 of the Complaint to the extent inconsistent therewith.

18. As to the allegations contained in paragraph 18 of the Complaint, respectfully refer the Court to the cited regulation as the best evidence and most accurate version of its contents and deny the allegations contained in paragraph 18 of the Complaint to the extent inconsistent therewith.

19. As to the allegations contained in paragraph 19 of the Complaint, respectfully refer the Court to the cited regulation as the best evidence and most accurate version of its contents and deny the allegations contained in paragraph 19 of the Complaint to the extent inconsistent therewith.

20. As to the allegations contained in paragraph 20 of the Complaint, respectfully refer the Court to the cited statutes and regulation as the best evidence and most accurate version of their contents and deny the allegations contained in paragraph 20 of the Complaint to the extent inconsistent therewith.

21. As to the allegations contained in paragraph 21 of the Complaint, respectfully refer the Court to the cited statutes and regulation as the best evidence and most accurate version of their contents and deny the allegations contained in paragraph 21 of the Complaint to the extent inconsistent therewith.

22. As to the allegations contained in paragraph 22 of the Complaint, respectfully refer the Court to the cited statutes as the best evidence and most accurate version of their contents and deny the allegations contained in paragraph 22 of the Complaint to the extent inconsistent therewith.

23. As to the allegations contained in paragraph 23 of the Complaint, respectfully refer the Court to the cited regulation as the best evidence and most accurate version of its contents and deny the allegations contained in paragraph 23 of the Complaint to the extent inconsistent therewith.

24. As to the allegations contained in paragraph 24 of the Complaint, respectfully refer the Court to the cited regulation as the best evidence and most accurate version of its contents and deny the allegations contained in paragraph 24 of the Complaint to the extent inconsistent

therewith.

25. As to the allegations contained in paragraph 25 of the Complaint, respectfully refer the Court to the cited regulation as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 25 of the Complaint to the extent inconsistent therewith.

26. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 26 of the Complaint.

27. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27 of the Complaint.

28. As to the allegations contained in paragraph 28 of the Complaint, respectfully refer the Court to the cited form as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 28 of the Complaint to the extent inconsistent therewith.

29. As to the allegations contained in paragraph 29 of the Complaint, respectfully refer the Court to the cited form as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 29 of the Complaint to the extent inconsistent therewith.

30. Deny the allegations contained in paragraph 30 of the Complaint, and respectfully refer all issues of law to the Court.

31. Deny the allegations contained in paragraph 31 of the Complaint.

32. As to the allegations contained in paragraph 32 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 32 of the Complaint to the extent inconsistent therewith.

33. As to the allegations contained in paragraph 33 of the Complaint, respectfully refer

the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 33 of the Complaint to the extent inconsistent therewith.

34. Deny the allegations contained in paragraph 34 of the Complaint.

35. As to the allegations contained in paragraph 35 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 35 of the Complaint to the extent inconsistent therewith.

36. As to the allegations contained in paragraph 36 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 36 of the Complaint to the extent inconsistent therewith.

37. As to the allegations contained in paragraph 37 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 37 of the Complaint to the extent inconsistent therewith.

38. Deny the allegations contained in paragraph 38 of the Complaint.

39. Deny the allegations contained in paragraph 39 of the Complaint, and respectfully refer all issues of law to the Court.

40. Deny the allegations contained in paragraph 40 of the Complaint.

41. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 41 of the Complaint, and respectfully refer all issues of law to the Court.

42. Deny the allegations contained in paragraph 42 of the Complaint, except admit that records of individuals involuntarily admitted pursuant to MHL § 9.39 are transmitted to NICS.

43. Deny the allegations contained in paragraph 43 of the Complaint.

44. Deny the allegations contained in paragraph 44 of the Complaint.

45. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 45 of the Complaint insofar as the cited “communications” are not identified.

46. Deny the allegations contained in paragraph 46 of the Complaint.

47. Deny the allegations contained in paragraph 47 of the Complaint.

48. Deny the allegations contained in paragraph 48 of the Complaint.

49. Deny the allegations contained in paragraph 49 of the Complaint.

50. Deny the allegations contained in paragraph 50 of the Complaint.

51. Deny the allegations contained in paragraph 51 of the Complaint, and respectfully refer all issues of law to the Court.

52. Deny the allegations contained in paragraph 52 of the Complaint.

53. Deny the allegations contained in paragraph 53 of the Complaint.

54. Deny the allegations contained in paragraph 54 of the Complaint.

55. Deny the allegations contained in paragraph 55 of the Complaint.

56. As to the allegations contained in paragraph 56 of the Complaint, respectfully refer the Court to the cited statutes as the best evidence and most accurate version of their contents, and deny the allegations contained in paragraph 56 of the Complaint to the extent inconsistent therewith.

57. As to the allegations contained in paragraph 57 of the Complaint, respectfully refer

the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 57 of the Complaint to the extent inconsistent therewith.

58. As to the allegations contained in paragraph 58 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 58 of the Complaint to the extent inconsistent therewith.

59. As to the allegations contained in paragraph 59 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 59 of the Complaint to the extent inconsistent therewith.

60. Deny the allegations contained in paragraph 60 of the Complaint.

61. Deny the allegations contained in paragraph 61 of the Complaint. .

62. Deny the allegations contained in paragraph 62 of the Complaint.

63. Deny the allegations contained in paragraph 63 of the Complaint, and respectfully refer all issues of law to the Court.

64. As to the allegations contained in paragraph 64 of the Complaint, respectfully refer the Court to the cited statute as the best evidence and most accurate version of its contents, and deny the allegations contained in paragraph 64 of the Complaint to the extent inconsistent therewith.

65. As to the allegations contained in paragraph 65 of the Complaint, respectfully refer the Court to the cited cases and other authorities as the best evidence and most accurate version of their contents, and deny the allegations contained in paragraph 65 of the Complaint to the extent

inconsistent therewith.

MATERIAL FACTS

66. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 66 of the Complaint.

67. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 67 of the Complaint.

68. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 68 of the Complaint.

69. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 69 of the Complaint.

70. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 70 of the Complaint.

71. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 71 of the Complaint.

72. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 72 of the Complaint.

73. Deny the allegations contained in paragraph 73 of the Complaint.

74. Deny the allegations contained in paragraph 74 of the Complaint.

75. Deny the allegations contained in paragraph 75 of the Complaint.

76. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 76 of the Complaint.

77. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 77 of the Complaint.

78. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 78 of the Complaint.

79. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 79 of the Complaint.

80. Deny the allegations contained in paragraph 80 of the Complaint.

81. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 81 of the Complaint.

82. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 82 of the Complaint.

83. As to the allegations contained in paragraph 83 of the Complaint, respectfully refer the Court to the cited letter as the best evidence and most accurate version of its contents, and deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in paragraph 83 of the Complaint.

84. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 84 of the Complaint.

85. As to the allegations contained in paragraph 85 of the Complaint, respectfully refer the Court to the cited letter as the best evidence and most accurate version of its contents, and deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in paragraph 85 of the Complaint.

86. As to the allegations contained in paragraph 86 of the Complaint, respectfully refer the Court to the cited letter as the best evidence and most accurate version of its contents, and deny knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations contained in paragraph 86 of the Complaint.

87. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 87 of the Complaint.

88. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 88 of the Complaint, except admit that the SAFE Act Office reviewed the records submitted by Plaintiff.

89. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 89 of the Complaint pertaining to the Doe Defendants. Admit the allegations contained in paragraph 89 of the Complaint as they pertain to the Defendants.

90. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 90 of the Complaint.

91. Deny the allegations contained in paragraph 91 of the Complaint.

92. Deny the allegations contained in paragraph 92 of the Complaint, except admit that the NICS Office denied Plaintiff's application for a Certificate of Relief on or about July 28, 2022.

93. Deny the allegations contained in paragraph 93 of the Complaint.

94. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 94 of the Complaint, and respectfully refer all issues of law to the Court.

95. Deny the allegations contained in paragraph 95 of the Complaint.

96. Deny the allegations contained in paragraph 96 of the Complaint.

97. Deny the allegations contained in paragraph 97 of the Complaint.

98. Deny the allegations contained in paragraph 98 of the Complaint.

99. Deny the allegations contained in paragraph 99 of the Complaint.

100. Deny the allegations contained in paragraph 100 of the Complaint.

101. Deny the allegations contained in paragraph 101 of the Complaint.

102. Deny the allegations contained in paragraph 102 of the Complaint.

103. Deny the allegations contained in paragraph 103 of the Complaint.

104. Deny the allegations contained in paragraph 104 of the Complaint.

105. Deny the allegations contained in paragraph 105 of the Complaint.

106. Deny the allegations contained in paragraph 106 of the Complaint.

DECLARATORY JUDGMENT ALLEGATIONS

107. Deny the allegations contained in paragraph 107 of the Complaint.

108. Deny the allegations contained in paragraph 108 of the Complaint.

109. Deny the allegations contained in paragraph 109 of the Complaint, and respectfully refer all issues of law to the Court.

110. Deny the allegations contained in paragraph 110 of the Complaint, and respectfully refer all issues of law to the Court.

111. As to the allegations contained in paragraph 111, this paragraph constitutes a statement of the relief sought by Plaintiff, to which no response is required. To the extent a response is required, deny that Plaintiff is entitled to the requested relief, or to any relief whatsoever.

112. As to the allegations contained in paragraph 112, this paragraph constitutes a statement of the relief sought by Plaintiff, to which no response is required. To the extent a response is required, deny that Plaintiff is entitled to the requested relief, or to any relief whatsoever.

113. As to the allegations contained in paragraph 113, this paragraph constitutes a statement of the relief sought by Plaintiff, to which no response is required. To the extent a

response is required, deny that Plaintiff is entitled to the requested relief, or to any relief whatsoever.

INJUNCTIVE RELIEF ALLEGATIONS

114. Deny the allegations contained in paragraph 114 of the Complaint.

115. Deny the allegations contained in paragraph 115 of the Complaint.

116. Deny the allegations contained in paragraph 116 of the Complaint.

117. Deny the allegations contained in paragraph 117 of the Complaint.

AS AND FOR A FIRST CAUSE OF ACTION
[Second and Fourteenth Amendments, 42 U.S.C. § 1983]

118. As to the allegations contained in paragraph 118 of the Complaint, repeat and reallege each of the foregoing allegations as if fully set forth herein.

119. Deny the allegations contained in paragraph 119 of the Complaint.

AS AND FOR A SECOND CAUSE OF ACTION
[Fourth Amendment, 42 U.S.C. § 1983]

120. As to the allegations contained in paragraph 120 of the Complaint, repeat and reallege each of the foregoing allegations as if fully set forth herein.

121. Deny the allegations contained in paragraph 121 of the Complaint.

AS AND FOR A THIRD CAUSE OF ACTION
[Fourteenth Amendment – Predeprivation Due Process, 42 U.S.C. § 1983]

122. As to the allegations contained in paragraph 122 of the Complaint, repeat and reallege each of the foregoing allegations as if fully set forth herein.

123. Deny the allegations contained in paragraph 123 of the Complaint.

AS AND FOR A FOURTH CAUSE OF ACTION
[Fourteenth Amendment – Postdeprivation Due Process, 42 U.S.C. § 1983]

124. As to the allegations contained in paragraph 124 of the Complaint, repeat and

reallege each of the foregoing allegations, as if fully set forth herein.

125. Deny the allegations contained in paragraph 125 of the Complaint.

126. As to the “wherefore” clause of the Complaint, deny that Plaintiff is entitled to the relief requested, or to any relief whatsoever.

127. Deny each and every allegation contained in the Complaint that alleges, or tends to allege, that the challenged action was in any way contrary to constitutional, statutory, regulatory or case law.

128. Deny each and every allegation of the Complaint not specifically responded to above.

AFFIRMATIVE DEFENSES

129. The Complaint fails to state a claim upon which relief can be granted.

130. The Defendants have not violated or deprived Plaintiff of any rights, privileges, or immunities under the Constitution or laws of the United States, the State of New York, or any political subdivision thereof.

131. At all relevant times, Defendants acted under the reasonable belief that their conduct was in accordance with clearly established law. They are, therefore, protected under the doctrine of qualified immunity.

132. The Court lacks subject-matter jurisdiction over this case.

133. Plaintiffs’ claims are barred, in whole or in part, by sovereign or Eleventh Amendment immunity.

134. The Complaint is barred to the extent it was not filed within the applicable statute of limitations.

135. All or some of the Defendants were not personally involved in the alleged

constitutional or statutory violations, and they are therefore not liable under 42 U.S.C. § 1983. The doctrine of *respondeat superior* does not apply in civil rights cases, and the Complaint should therefore be dismissed.

136. Plaintiff has failed to exhaust administrative remedies.

137. The acts or omissions of the Defendants did not proximately cause any of the alleged deprivations, losses, or injuries of which Plaintiff complains.

138. The challenged statutes, laws and actions at issue in this case do not implicate the Second Amendment.

139. The challenged statutes, laws and actions are fully supported by law, history and tradition.

WHEREFORE, Defendants respectfully ask that this Court deny the relief requested, dismiss the Complaint, and grant such other relief as to the Court shall seem just and equitable.

Dated: Albany, New York
June 9, 2023

LETITIA JAMES
Attorney General
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Attorney for Defendants
The Capitol
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